

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID MOWETT,

Plaintiff,

v.

Case No. 15-14166

AUTO OWNERS INSURANCE
COMPANY,

Defendant.

**OPINION AND ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION**

Pending before the court is Plaintiff's Motion for Reconsideration. (Dkt. #34.) Defendant has not filed a response, but after reviewing the brief, the court deems that none is necessary. Subject to the court's discretion, a motion for reconsideration shall be granted only if the movant "demonstrate[s] a palpable defect by which the court and the parties . . . have been misled" and "show[s] that correcting the defect will result in a different disposition of the case." E.D. Mich. L.R. 7.1(h)(3). "A 'palpable defect' is 'a defect that is obvious, clear, unmistakable, manifest or plain.'" *Buchanan v. Metz*, 6 F. Supp. 3d 730, 752 (E.D. Mich. 2014) (quoting *United States v. Lockett*, 328 F. Supp. 2d 682, 684 (E.D. Mich. 2004)). The court "will not grant motions for . . . reconsideration that merely present the same issues ruled upon by the court." E.D. Mich. L.R. 7.1(h)(3).

Plaintiff argues that the court should reconsider its earlier grant of dismissal as a sanction for failure to comply with the court's orders regarding his discovery obligations, (Dkt. #32), on the basis that Defendant did not truly attempt to resolve discovery

disputes in good faith, that Defendant made unspecified “grossly erroneous assumptions to the court[,]” that Plaintiff struggled to communicate with opposing counsel, that Plaintiff is “not aware if local counsel was present” at a status conference in November, that Plaintiff’s failure to comply with the December 19th deadline was really the result of a technical failure, and that he suffered from medical problems resulting in “sudden and necessary medical procedures” which “negatively affected Plaintiff in the months of November and December[,]” (Dkt. #34, Pg. ID 240-41).

None of the above items identify a palpable defect in the court’s order, the correction of which would result in a different resolution of the case. Most of the items “merely present the same issues ruled upon by the court.” See E.D. Mich. L.R. 7.1(h)(3). The court sympathizes with Plaintiff’s medical problems, but it began threatening dismissal as a sanction in September for misconduct which occurred as early as June, before Plaintiff’s illness emerged, (See Dkt. #24). Accordingly,

IT IS ORDERED that Plaintiff’s Motion for Reconsideration (Dkt. #34) is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 23, 2017

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 23, 2017, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(810) 984-2056